

### **REMARKS**

The Final Office Action dated December 17, 2010 has been reviewed and carefully considered. Claims 1-10 are pending. Reconsideration of the above-identified application in light of the amendments and remarks is respectfully requested.

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by Maissel et al (U.S. 2004/0049787 A1). Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Maissel.

Amended claim 1 recites the limitations of “wherein at least a part of the criteria is based on information about the program evaluation by other users of the broadcast medium, *wherein the method includes using a separate enquiry to at least one other user for input*”. No new matter has been added. Support for the amendments can be found at least on and page 2, lines 15-16 and 29, respectively. Amended independent claims 6 and 9 recite similar limitations.

Applicant respectfully submits that the cited Maissel fails to teach or suggest the above limitations. Although, Maissel indicates that other factors in addition to a viewer preference profile may also be applied by the intelligent agent, see para. [0148], such as parental, subscription, rate, etc. information. It

does not teach a separate enquiry to at least one other user for such input. Thus, Maissel fails to teach the above limitation.

The Final Office Action indicates that Maissel teaches that at least a part of the criteria is based on information about the program evaluation by other user of the broadcast medium (utilizing preference profiles from multiple users; paragraph 134 and 154), using a separate enquiry of the other users (paragraph 124). Applicants respectfully disagree. In paragraph 124, Maissel teaches that the user (viewer) to edit or modify the viewer preference profile. Although, the viewer may choose to include or not include other recommendations by other users; applicants can find nothing therein that teaches wherein the method includes a using a separate enquiry to at least one other user for input.

The Manual For Patenting Examining Procedure (MPEP) § 2131 clearly sets forth the standard for rejecting a claim under 35 U.S.C. § 102(b). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” (MPEP § 2131, quoting Verdegaal Bros. v. Union Oil Co. of California 2 USPQ2d 1051, 1053 (Fed Cir. 1987)). “The identical invention must be shown in as complete detail as is contained in the ...claim.” (MPEP § 2131, quoting Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). “The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e. identity of

terminology is not required.” (MPEP § 2131, citing In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990)).

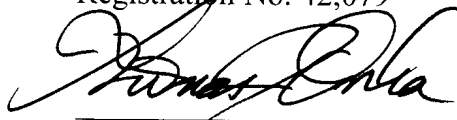
Since Maissel does not teach all of the limitations of independent claims 1, 6 and 9, it cannot anticipate the present invention. For at least the above cited reasons, Applicant submits that Claims 1, 6 and 9 are patentable over Maissel.

With regard to claims 2-5, 7-8 and 10 these claims depend from the independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2-5, 7-8 and 10 are also allowable by virtue of its dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. Entry of this amendment and a Notice of Allowance is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Thomas J. Onka', written over a horizontal line.

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